RD 1894 b

G. R. S. IX-5]

Previous references.

File No. 17-94.

~~191~~ .

Serial Nos. 1-8

(97.)

Later references.

GENERAL AND REVENUE SECRETARIAT.

P-41 / K-E

Serial Nos. 1 to 8

Register ~~Part~~ B for Feb. 98

SUBJECT.

Refund bill in favor of one Krishnagauda of Hulavalli Chickmagalur Taluk.

W D 88—GPB—50,000—24-7-16

Correspondence

Indexed
K.R.

Petition from Krishnegowda of Hulavalli village, Chikkamagalûr Taluk, appealing against the order of the Deputy Commissioner, Kadûr District, dated 9th March 1895, fining him Rs 50 for removing the Bands.

It appears from the Vernacular Records that Krishnegowda removed some stone and mud 'Bands' existing between Survey Nos 32 and 40 in the village of Hulavalli and the Deputy Commissioner finding him guilty of the said offence inflicted a fine of Rs 50 and ordered the Bands to be replaced.

The facts of the case are:-

One Siddegowda of Hulavalli, the holder of Survey No 32 complained against one Kadegowda and Krishnegowda who own Survey

9th December/91

No 40 2 in the same village of having removed certain Bands on his land and encroached upon a portion of the same. -

Rameyowda the Patél stated that 9th April 192.
no 'Band' had been damaged; that the stone Bands stood on the ridge between the west land of Siddeyowda and that of the Kadeyowda and Krishneyowda (Defendants); that the Defendant had cut the portion of the ridge by the side of his land thinking that it was attached to his land; that the Complainant (Siddeyowda) had obstructed the Deft. that he and the Shanbhog had also told the Deft. not to cut it and that he had not since seen the place. —

At the instance of the Taluk Sheristadar a mahazar was drawn up by the Panchayatdars on the 22d. December 194 after inspecting the spot. The mahazar states that the complainant (Siddegowda) holds a portion of Survey No 32, west, measuring 33 Guntas assessed at Rs 4-12-0 and that the Deft Kadegowda holds a portion of No 40. west measuring 1 a. & 10 and assessed at Rs 7-4-0; that the Defts Kadegowda and Krishnegowda are undivided brothers; that "Band Sixth" ought to have been left between the two lands by both the parties, but has not been so left by either of them; that the Defendants' land is lower than that of Siddegowda; that Kadegowda has cut the band by the side of the Nala at the West of his field nearly 1 foot in

breadth and 6 feet in length and encroached upon it, and that the Defendants have removed and replaced almost all the 'bands' existing between those 2 fields, as they appear to be shaky. —

Krishnegowda, in his Statement, says that he did not remove and replace the Bands as alleged; that Siddegowda has complained against him through Zid in order to put him into trouble; that Siddegowda himself has removed the Stone Bands by the edge of the plough at the time of cultivating the field that Siddegowda has not removed them all at one time, and that he is unable to prove when Siddegowda did so. —

26th Dec 1/94

The Amildar observing that it was the duty of the holder of the land to look after the 'bands' on his land

2)

land and bring the offenders to justice even though he himself had not tampered with them, found fault with Krishnegowda and submitted the Record to the Dy Commissioner So that the delinquent might be punished under Section 133 of the Mysore Land Revenue Code

31st January/95

The Dy Commissioner directed the Amildar to submit a Sketch of the Survey Nos prepared in accordance with the mahazar drawn up by the panchayatdars and to produce the Record with parties before the Huzur Jamabandy Officer for disposal. —

A Sketch has also been drawn up by the Shekdar in presence of the panchayat=dars on the 21st February 1895 which shows that one mid Band has been partly mutilated and that 8 Stone Bands have been tampered with

6

The Amildar accordingly brought the case in the Dakhar dist No 8 and placed the Record before the Jamabandy Officer (or Commissioner) whose order is that "the Sheristadar Rangamma and Shekdar have inspected this and state that Krishnegowda has removed 9 Stones and 2 Bands between Survey Nos 40 & 32 Krishnegowda is absent although ordered to be present. He is fined Rs. 50 and ordered to replace the Bands and Stones." —

+ 9th March/95.

The appellant has been convicted an offence under Section 133 of the Land Revenue Code by the Deputy Commissioner of Kadur and fined in a sum of fifty Rs.

The accused is an undivided brother of the Khatedars and there is no evidence directly connecting the appellant with the act of removing the boundary stones of which he has been convicted. There are two Dharkhasts on record which show that a little earth on one of the sides of an ancient boundary mark has been scraped off and that a few stones are shaky. There is no other evidence oral or documentary to be found in this record. On a report received from the Amildar the Deputy Commissioner ordered the matter to be brought up for his orders at the time of the Jamabandi, and on a statement prepared by the

Notes commenced from
GOVERNMENT OF MYSORE
Page 18

7

1

Precis

Petition no 2619
dated 4th April 1895

Petitioner Krishne
Gowda of
Hulivalli, Chicka
magalur Taluk

On the 9th Dec.
1891 one Sidde Gowda
son of Hanumanthe
gowda complained to
the Amildar of Chicka
magalur that Kade
gowda & Krishne Gowda
had removed certain
bandh stones which stood
on the southern ridge of
his wet land survey no
32 of Hulivalli and en-
croached on a portion of
the said land.

The Shekdar was
thereupon ordered to
enquire into the matter
and submit a report
with a mahazar.

On the 29th Dec.
1891 the above named
Sidde Gowda presented

Amildar replaced
appellate Dy Com
be recorded the
order appealed agt.
The Dy Com has
noted that the appellant
failed to appear
though he had under
to appear at the
time of the Jamma
bandi - but no
written notice was
served on the appellant
is to be found in
the record -

Sec 133 says that
a summary enquiry
appears a person
can be convicted
under that Section
and in Section 203

9-12-91

are to be found the
details of the
procedure designated
summary enquiry
In the record none
appears but there is
nothing to show the

a petition to the Deputy Commr that no action had yet been taken on his petition to the Amildar and that the witnesses and the accused might be examined and early orders passed in the case.

His petition was forwarded to the Amildar of Chickamagalur for report.

Rame Gowda Patel gave a statement that the stones (bansh) stood on the ridge between the wet land of the complainant and that of the accused, that the accused had scraped a portion of the ridge towards his land thinking that it belonged to him, that the complainant had obstructed the accused whilst doing that act, that he (Patel) and the shanbhog had also told the accused not to do so and that he was not aware of what had taken place subsequently.

The purport of this enquiry sometime became - Neither the Asst Commr nor the Dy Comr has recorded the averments made by the parties as the material parts of the evidence - Such omissions are very material and should not be allowed to occur. Apart from this irregularity the record contains no proof at all of the allegations and it is not right to hold that because the appellant did not know who meddled with the stones he must have wilfully removed them himself. There is nothing to show where the stones ought to have been

according with the survey plan and whether they were work in the right place -

The commissioner under these circumstances cannot be upheld and the fine if recovered must be refunded.

It is understood that the report that the complt is not in this matter which was

× ×

what took place in the interval is not very clear from the records. received in 1891 was not decided till 9 months after 5 - The Amildar of the Taluq is severely at fault for this long delay & he must be censured. The Dy Commr should when Kadesonda Krishnasonda etc. and the Taluq Offrs found out what pending cases and misc. work there

Surveyor, Bmk. 21/9/95 Dy Commr 16.9.95 Asst Commr

on the 4th October 1892 the Amildar ordered the shekdar to inspect the spot, obtain a mahazar from the Panchayetdars and submit it early with a rough plan showing what branch stones had been removed, altered &c

On the 23d November 1892 the shekdar reported that the village map was not with him and that without it nothing could be done in the case.

× ×

On the 22d Decr 1894 a mahazar was executed by the villagers. The mahazar states that 33 gs out of survey no 32 is in the enjoyment of the complainant and 1 acre 10 gs out of survey no 40 in the enjoyment of the accused Kade Gowda, that both the accused are undivided & uterine brothers, that both parties ought to have left a margin between their respective lands

but have not done so, that the land of the accused is lower than that of the complainant, that the accd Kade Gowda has cut the bandh by the side of the Kalve towards the west of his land, that the portion cut is about 6 ft long & 1 ft broad; that the said Kade Gowda has encroached on that portion, that the stone by the side of the above bandh seems also to have been first removed & subsequently placed there, that at a distance of 8 yds from the last mentioned bandh another stone has been removed and the same thrown on the land of the ~~accused~~ complainant, that other bandh stones have similarly been removed and that it is not possible to state when the bandh stones ~~were~~ were actually removed.

Both parties were present when the mahzar

was executed.

On the 24th Dec. 1894 Krishne Gowda accused gave a statement before the Amildar that he had not removed the bandh stones which stood between his land and that of Sidde Gowda, that he had not cut the ridge between the two lands but only removed the grass there from, that complainant Sidde Gowda alone had done the act with the intention of bringing him (Krishne Gowda) to trouble, that the villagers belonged to the faction of the Patel, that there was for a long time misunderstanding between him and the villagers, that Sidde Gowda alone had removed the bandh with the help of his ploughmen and that it was not possible to prove when Sidde Gowda had done so

on the 28th January
1895 the Mamlatdar
reported to the Deputy
Collector that the Sheris
tedar had personally
inspected the land at
the jamabandi, that
neither party had left
bandh sisth (a margin)
between survey No. 32 & 40,
that the bandh stones
between the two lands
were not found to be
in proper condition, that
the accused had removed
the bandhs & encroached
thereon, that some stones
appeared to have been
first removed & subsequently
replaced, that the complain-
ant stated that the act
had been done by the
accused but Krishna
Gowda accused did not
admit it, that nevertheless
it was clear that the
accused alone had done
the act, that it was

GOVERNMENT OF MYSORE

the duty of the holder of the land to see that no injury was done to the boundary marks ~~standing~~ on his land, that even if, as alleged, the holder had not removed the stones yet ~~[illegible]~~ he would be liable to show who actually committed the offence, that the act appeared to be intentional, that if the offenders were left unpunished such offence would multiply, that no one other than the accused could have committed this offence, that the encroachment ~~[illegible]~~ had not been made all at once but slowly, ~~[illegible]~~ and that the accused misinterpretation might be punished under Sc 133 of the Land Rev. Code.

On the 31st January 1895 the Deputy Commr

observing that there was a delay of 3 years in the disposal of the case on the pretext of the map not having been available, ordered the amildar to report how such delay had occurred

The amildar was further directed to get a ~~prepare to obtain~~ rough plan showing how the several bandh stones stood on the land, prepared by a survey knowing shekdar, and to include the case in the Zakras list for orders at the ensuing panchayat by the Deputy Commr.

On the 19th February 1895 the shekdar was ordered by the amildar to carry out the above order of the Deputy Commr.

A mahazar was executed on 21-2-95 by the villagers. There is also a rough plan

Showing the positions
of the several boards
the manager states
that:
stone no 1 is all right
no 2 ditto
no 3 appears to
have been first removed
& then replaced
no 4 which stood
behind the ridge is
thrown towards the E
the ridge is also cut;
no 5 which stood
behind the ridge ~~on~~ in the
~~board~~ field is now in
a slanting position and
faces the south; the
ridge is cut
no 6 is thrown back
~~wards~~ & is shaky,
no 7 appears to have
been first removed &
subsequently replaced
no 8 ditto
no 9 ditto though
standing erect
no 10 appears to have
been ~~torn~~ cut
no 11 is 1 ft ~~covered~~
covered with Earth

and it stands by the side of the ridge.

The manager further states that the bench stones between survey Nos 32 & 40 have been altered and encroachment made on survey No. 32.

In the Takrar list the Amildar states that failing to leave a margin "bench rista" and injuring the survey marks are both objectionable and that the offender may be fined and directed to keep the benches in proper condition

On 9-3-95 the Deputy Commr ordered as follows.

"The Sheristedar Ranganna and Sheikdar have inspected this and state that Krishne Gowda has removed 9 stones and 2 benches between survey Nos 40 & 32. Krishne Gowda is absent

although ordered to be present. He is fined Rs 50 and ordered to replace the bunds and stones"

The present appeal by Govt is against the above order of the Deputy Commr.

The grounds of appeal are

1 That the bund stones remain where they stood at the survey and they are shaky probably because the cattle move about there and rub their bodies against those stones

2 That it is usual with the ryots to scrape on both sides the ridges of their fields once in some years, ~~[illegible]~~ otherwise the ridges will encroach on the field

(8)

3. That the punishment inflicted by the Deputy Commr is too severe.

The petitioner prays that the fine may be remitted

KLL
10.9.

The appellant has been convicted of an offence under Sec 133 of the Land Revenue Code - by the Dy Commr of Kodagu and fined in a sum of Rs 50.

The accused is an undivided brother of the Ishaladen and there is no evidence directly connecting the appellant with this act. There are however certain documentary statements which are his Khatazans on record which show that a little earth on one of the sides of an earthen boundary mark has been scraped off and that a few stones and markers have been removed. There is no other evidence available on the record - On a report received from the Asst Commr the Dy Commr ordered the matter to be brought up before his orders at the time of the Jamma bandi, and on a statement prepared & signed by the

Draft accepted subject to the opinion of the Govt 17/9/95

Govt Pleader 17/9/95

Submitted to Rev Commissr
In time
Stamp Sufficient
Pet prays that the fine imposed
on him may be ordered
14/6/95 not to be Collected, pending
disposal of this Appeal

D 1661 (0-3

With Dy Comrs
report with the
record of the
case
Mrd
13.7.95

d
15-7-95

Gen. Serial No. 32.] (1) 49

1895

No. 2619

Name of Petitioner. Veerabhadra Gowda

Village. Hulivalla

Taluk. Sectn Kunigal

District. Kadur

File No.

Serial No.

Date of Arzi. 6-6-95

Date of Receipt. 6-6-95

Date of Disposal.

No. of Enclosures.

ABSTRACT.

Appeals against the order of the Dy. Comr. of 9-5-95 (which is in English) passed during the Jamabandi of this year fining him Rs 50/- for erecting the Embankment and encroaching upon communale forest land and also for removing the Band Stones and says that the Band Stones are in their places as fixed during Survey. that they say the said Stones are shaky - that since the cattle move about there the place they rub against them - that consequently they are shaky - that the person who wants to remove them would not allow them to stand as they are - that this point was not taken into consideration - that this point is enough to [illegible] that the order is partial

Recd. 15.

Drafted 14/6/95

that as prepares the Charge of cutting up the Embankment - they are apt to be slipshod - that it is Everywhere customary to cut the portions built once in every 3 or 4 years - that similarly he had directed his servants to do this - that though he might have exceeded his Commission it would have been a labour lauded to him if he had been directed to perform it at his own costs - that it would be very difficult for the Jurors to find him if such heavy fine as imposed for such a trifling offence - and that the stones to repair have been loosened by the cutting up of the Embankment by the flow of water during rainy season - Prays that on perusal of the Record the fine may be directed to be remitted - and that the Dy. Commr. may be asked not to collect the fine till his appeal is disposed of.

15/4.

MYSORE DEWAN'S OFFICE
PETITION DEPARTMENT.
REG'D No. 2619 R
DATE 6. 2. 95

COURT FEE
TWO RUPEES

Two rupees stamp affixed

Encl: 1 one

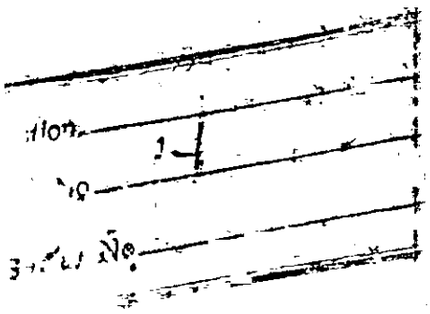
Pet. 158 ✓

Yo-0395

28 20-7-95

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT



OFFICIAL MEMORANDUM.

The accompanying Appeal Petition

No. 2619 dated 4-14-95

received at the Dewan's Office from Krishna Gowda of Hulivalle, Chick-magalur Taluk, appealing against the Dy. Commrs order dated 9th March 1895 fining him Rs 50 for removing Bandhs ~~and encroachments~~

2-14-95

~~Rs~~ 5-

is forwarded, together with its one enclosures to the Deputy Commissioner of the Kadur District for submission of the entire proceedings connected with the case, together with a full report of the facts of the case, and on the points urged in the petition.

2. The petition with its enclosure should be returned.

By order,

Draft. 18-7-95

BANGALORE, 18-7-1895.

~~Chief~~ Secretary.

Rw

16/7 16/7

M.G.C.P.B.—25-4-95—1,000

Gen. Serial No. 32.]

1895

No. 3494

Name of Petitioner. Keshava Gowda of

Village. Kalavalli

Taluk. Chickmagalur

District. Kadur

Date of Arzi. 25-6-95

Date of Receipt. 25-6-95

Date of Disposal.

No. of Enclosures. Nil.

ABSTRACT.

Reminder to his appeal of 3-4-95 against the order of the Dy. Comr. Kadur Dist. fining him Rs. 50/- for removing the Bund Stones & and Encroaching on the Siddegowda land.

Prays that Enquiry may be ordered remitting the fine unjustly imposed on him.

27/6.

28/6

3494

MYSORE DEWAN'S OFFICE
PETITION DEPARTMENT.
REG'D. N. 3494R.
DATE 26-6-15

ਸੇਵਾ ਵਿਖੇ ਸ੍ਰੀਮਾਨ ਜਿਲ੍ਹਾ ਮੈਜਿਸਟ੍ਰੇਟ ਸਾਹਿਬ ਜੀ,

ਜਿਲ੍ਹਾ ਮੈਜਿਸਟ੍ਰੇਟ ਸਾਹਿਬ ਜੀ ਦੀ ਸੇਵਾ ਵਿਖੇ ਬੇਨਤੀ ਹੈ ਕਿ ਮੈਂ ਆਪਣੇ ਨਿੱਜੀ ਕੰਮ ਕਾਰ ਲਈ ਇਕ ਲਾਇਸੰਸੀ ਰਿਵਾਲਵਰ ਰੱਖਦਾ ਹਾਂ ਜਿਸ ਦਾ ਲਾਇਸੰਸ ਨੰਬਰ ..... ਹੈ। ਮੈਂ ਆਪਣੇ ਕੰਮ ਕਾਰ ਲਈ ਕਈ ਵਾਰ ਬਾਹਰ ਜਾਂਦਾ ਹਾਂ ਅਤੇ ਕਈ ਵਾਰ ਮੈਨੂੰ ਰਾਤ ਨੂੰ ਵੀ ਸਫਰ ਕਰਨਾ ਪੈਂਦਾ ਹੈ। ਇਸ ਲਈ ਮੈਨੂੰ ਆਪਣੀ ਸੁਰੱਖਿਆ ਲਈ ਰਿਵਾਲਵਰ ਦੀ ਲੋੜ ਹੈ।

ਮੈਂ ਆਪ ਜੀ ਪਾਸ ਬੇਨਤੀ ਕਰਦਾ ਹਾਂ ਕਿ ਮੇਰੇ ਰਿਵਾਲਵਰ ਦਾ ਲਾਇਸੰਸ ਨੰਬਰ ..... ਮੇਰੇ ਨਾਂ ਤੇ ਕਰਨ ਦੀ ਕਿਰਪਾਲਤਾ ਕਰਨੀ ਜੀ।

ਧੰਨਵਾਦ ਸਹਿਤ

ਆਪ ਦਾ ਆਗਿਆਕਾਰ

ਦਸਤਖਤ

ਨਾਮ

ਪਤਾ

Gen Serial No. 31.

18 (3)

REVENUE DEPARTMENT
Gl. No. 1226
No.
12 AUG. 95
DEWAN'S OFFICE
Pet 139

From

The Deputy Commissioner
Kadoor District.

No. 17-117

To

The No. Revenue Secretary
to the Government of Mysore
Bangalore.

Dated 6th
Despatched 10th } August 1895
Received

Enclosures No. 1 & petn: & on file V.P.

General No. 122 } 1895-96.
No.

In reply to his Memo dtd Pet 158 dated 18th Instant forwarding for report petition from one Kristne Gowda of Kaloovalli; Chikmagalur Taluk, appealing against the undersigned's orders fining him Rs: 50/- for removing Boundary marks, has the honor to submit for orders Memo Explaining the facts of the case and the points urged in the petition

2. The petition with its Enclosures is herewith returned together with Vernacular papers ending with Chikmagalur Amildar's dtd: 17th dated 30th Instant.

Deputy Commissioner
Kadoor District.

Pet
HCh
12/8/95

Pet & Memo of Dy Commr referred for
13/8 clause (f) para 1 of Sec. 10 of the
new Council Rules - "claims to set
aside any order passed with regard
to boundary marks"

Subt to the Revenue Committee
with ref to the order on Petn
No 2619.
15/8

Mr Kantaraj file
this fully under
Sec 133 & the
petn quashed
& it is different
matter & CC
Mr Shah
17/8/95

Pet
for consideration
19-8-95

Petition Duplicate Impress.
KR 9/8
RD 7.9.95
Submd
10.9.95
KRN

Resubmitted for orders
with a precis of the Vern:
file.
CH 6/9

Memo

In re the removal of Boundary marks by one Krishna Gowda of Kaloovalli Village, Chickmagalur Taluq. —

9th December 1891. 1. One Siddé Gowda of the Kaloovalli Village owning Survey No: 32 Paiki, Complained against one Kasé Gowda and Krishné Gowda who own Survey No: 40 Paiki of having removed certain boundary marks on his land and encroached upon a portion of the same.

9th April 1892. 2. The Patel of the Village stated before the Taluk Shirestedar that he and the Shanbhogue informed the defendants not to cut the bund of the complainants' fields and added that the boundary marks disappeared as alleged above.

29

3. The Sheristedar to whom the papers were sent for report not having submitted a complete report on the subject, the Taluq Sheristedar proceeded to the spot on 22nd December 1894, held a panchayat there and in the presence of the parties concerned ascertained that the defendant Kristnégowda, an undivided brother of the Khatedar for No: 40 Gaibi, removed some of the stones and replaced them in different positions, mutilated one of the earthern mounds and thus committed an offence punishable under Section 133 of the Land Revenue Code. 22nd December 1894.

4. On perusing the amildar's report and the Manager, he (amildar) was called upon to bring up this case with parties for 3/ct January 1895.

for orders at the time of
Munzoor Jemabandi and to
Explain the reason for the
unaccountable delay of 3 years
in Submitting the requisite
report on the Subject. The
Amildar was also directed to get
an approximate Sketch of the
Stones &c Said to have been
tampered with, prepared by a
Survey knowing Sheikdar for
orders at the Jemabandi.

21st February 1895

5. In the Sketch Submitted
by the Sheikdar, late measurer
Venkat Row Krishna, it is
observed that one Mud bandh
has been partly mutilated and
the mud utilized and that some
8 Stones have been tampered
with by Kristne Gowda when
scraping year by year the margin
of his brothers' land of Survey
No: 40 paiki which lies contig-
uous to the petitioners land,
Namely Survey No: 32 paiki

6 The case having come up
for final orders on 9th March

1895

1895 at the time of Hunzoo's
Jemabandi, the matter was
enquired into by the Undersigned.
The delinquent Kristne Gowda,
who had already denied all
knowledge of the offence before
the Taluk Sheristedar, did not
turn up in Spite of necessary
instructions having been given
to him to appear at the time
of Jemabandi, but the Villagers
including the Patel and Shan-
bhogue, who were present then
were orally Examined. They
confirmed the Statements
of the Taluk Sheristedar and
the Sheristedar who had actually
seen the spot and Submitted
their reports, that Kristne-
Gowda damaged the bandhis
as above described.

7 The defendants land is
alleged to be on a lower level
than

PUBLIC RECORDS OFFICE

than the complainants'. It is very likely that as stated by the Sheriff-Cedar, the Defendant year by year encroached upon the complainants' land by scraping the margin of his opponents' land, and in so doing, he did not take care to maintain the boundary marks which existed on the margin. Though Kristine Gowda denied knowledge of this wrongful action, yet it was his duty to have found out the culprits and brought them to justice. The onus of proving his innocence fell on him, but he failed to disprove it though he was given full time to do so. Under these circumstances, he was found to be guilty of the offence punishable under Section 133 of Land Revenue Code, Viz, that he removed certain

certain boundary stones and erased part of the earthen boundary marks, and he was accordingly fined Rs: 50/ with orders to replace the marks and stones damaged.

8. As regards the allegation in the appeal petition that some stones became shaky owing to the rubbing caused by cattle, it may be said that the damage was by the action of scraping the margin of his land and not by anything else - Vide Marahazir and other papers with file herewith sent.

9. Regarding the appellants statement that orders directing him to set the margin right would have taught him a good lesson, it may be observed that the punishment was inflicted not on account of scraping the

the lands of the field, but on account of removing and mutilating the boundary marks and removing stones: While the other objections in the Appeal petition are so futile that they desire no remarks of any kind.

H. H. Sparks

Deputy Commissioner
Thesaur District

GOVERNMENT OF KERALA

Dated 26-9-95

No. 2619/ 17-96 S2

Draft

Draft

Draft

By order

Dated 19 1995

Revenue Secretary

(5)

Pro: of the Govt of Mysore.

" 88

GOVERNMENT OF MYSORE

Read:-

~~Appeal~~ Petition No 2169 of the 4th April 195 from Krishnégowda of Haldavalli Chikkamagalûr Tk appealing against the order of the Commr, Kadûr District fining him Rs 50 for removing Bands.

(2) Records received with Docket No 12 dt 26 Augt 1895 from the Dy Commr Kadûr District ~~No 122 of the 6th August 1895.~~

Order thereon No 727 Dt 24-9-95

26.

The appellant has been Convicted of an offence under Sec 133 of the Land Revenue Code by the Dy Commr of Kadûr and fined in a Sum of Rs 50/-

2. The ~~accused~~ appellant is an undivided brother of the Khateda and there is no evidence directly Connecting ~~the appellant~~ him with the act of removing

the boundary stones, of which he has been convicted. There are two mahazars on record which show that a little earth on one of the sides of an earthen boundary mark has been scraped off, and that a few stones are shaky. There is no other evidence oral or documentary to be found in the record. On a report received from the Amildar the Dy/Commr ordered the matter to be brought up for his orders at the time of the jamabandi, and on a statement prepared by the Amildar and placed before the Dy/Commr he has recorded the order appealed against.

3. The Dy/Commr has noted that the appellant failed to appear though he had notice to appear at the time of the jamabandi, but no written notice properly

served on the appellant is to be found in the record.

4. Sec. 133 lays down a Summary enquiry before a person can be convicted under that Section, and in Section 203 are to be found the details of the procedure designated a Summary enquiry. In the Record now before Govt there is nothing to show the progress of this inquiry from time to time. Neither the Amildar nor the Coroner has recorded the averments made by the parties or the material parts of the evidence - Such omissions are very material and should not be allowed to occur. Apart from this irregularity the record contains no proof at all against the appellant, and it is not right to hold that because the appellant did not show who meddled with the stones, he must have wilfully removed them himself There is nothing to show

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where the Stones ought to have been according to the Survey plan and whether they were not in the right place.

The Conviction under the circumstances cannot be upheld and the fine, if recovered, must be refunded.

It is noted with regret that the Complaint in this matter which was received in 1891 was not decided till 9th March 1895. The Amildar of the Taluk is seriously at fault for this long delay and he must be Censured. The Dy Comr should, when examining the Taluk Registers, find out such pending Cases and insist on their prompt disposal.

Draft for approval

By order

21/9/95 Rev Secy 24/9.

Draft endorsement is noted herewith

To The Dy Comr Kadur with Record

Print

Gen. 31.]

(6)

REVENUE DEPARTMENT
GL. No. 5986
No. 349
1895-96
7 FEB. 05
DEWAN'S OFFICE

MV
HB
7/2/96

Subd worked out
HB
22/1/96

From The Deputy Commissioner
Kadur District

To The Revenue Secretary
to the Govt of Mysore.

Dated 16th December 95

Despatched 5/2/96.

Received

General No. 579 3 95-96
No.

Enclosure No. one

With reference to Govt Proceedings No. Ct 727 dated 24th September 1895 setting aside the undersigned's Order inflicting Rs 50/- on one Kaluvalli Krishna Gowda for destruction of boundary marks, &c, and directing the refund of the same to him, has the honor to submit the enclosed refund bill for the said amount for Counter Signature and transmission

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transmission to the Comptroller for audit.

H. H. Sparks

Deputy Commissioner

Kaduna District

(7)

Draft

Read:

Docket No 549 dated 16th December 1895 but (despatched on 5-2-96) from the Deputy Commissioner, Kadur Dist^t submitting for sanction, a refund bill ~~based as per Govt Proc^s No~~ 727 ~~dated 21st September 1895~~, in favour of one Halwalli Krishné Gowda, for Rs 5-2-4-0 being the amount of fine before levied from him for removing boundary marks, ordered but to be refunded as per Govt Proc^s No 727 dated 24th Sept^r 95 vide Order thereon No 7689-90 dated 25/2/96 & No 490 5-2-4-0

The refund of Rs ~~5-2-4-0~~ is sanctioned & the bill passed on to the Comptroller for audit.

25/2/96
for Secy

Amount of fine Rs 50/-
Notice fees 2-4
Rs 52-4-0

To The Dy Comm^r, Kadur District
The Comptroller with bill

WM
WMark